

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE G. PROVISION OF SERVICES IN CERTAIN FACILITIES

CHAPTER 323. EMERGENCY SERVICES FOR SURVIVORS

OF SEXUAL ASSAULT

Sec. 323.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 7, eff. September 1, 2017.

(2) "Department" means the Department of State Health Services.

(3) "Health care facility" means a general or special hospital licensed under Chapter 241, a general or special hospital owned by this state, or a freestanding emergency medical care facility licensed under Chapter 254.

(3-a) "SAFE-ready facility" means a health care facility designated as a sexual assault forensic exam-ready facility under Section 323.0015.

(4) "Sexual assault" means any act as described by Section 22.011 or 22.021, Penal Code.

(4-a) "Sexual assault forensic examiner" means a certified sexual assault nurse examiner or a physician with specialized training on conducting a forensic medical examination.

(5) "Sexual assault survivor" means an individual who is a victim of a sexual assault, regardless of whether a report is made or a conviction is obtained in the incident.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. 677), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.001 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 7, eff. September 1, 2017.

Sec. 323.0015. SAFE-READY FACILITIES. The department shall designate a health care facility as a sexual assault forensic exam-ready facility, or SAFE-ready facility, if the facility notifies the department that the facility employs or contracts with a sexual assault forensic examiner or uses a telemedicine system of sexual assault forensic examiners to provide consultation to a licensed nurse or physician when conducting a sexual assault forensic medical examination.

Added by Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 2, eff. September 1, 2017.

Sec. 323.002. PLAN FOR EMERGENCY SERVICES. (a) Each health care facility that has an emergency department shall comply with Section 323.004. At the request of the department, a health care facility that has an emergency department shall submit to the department for approval a plan for providing the services required by Section 323.004 to sexual assault survivors who arrive for treatment at the emergency department of the health care facility.

(b) The executive commissioner of the Health and Human Services Commission shall adopt procedures for submission, approval, and modification of a plan required under this section.

(c) A health care facility shall submit the plan required by this section not later than the 60th day after the date the department requests the plan.

(d) The department shall approve or reject the plan not later than the 120th day after the date the plan is submitted.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. 677), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.002 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(10), eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. 1191), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0857,

eff. April 2, 2015.

Sec. 323.003. REJECTION OF PLAN. (a) If a plan required under Section 323.002 is not approved, the department shall:

- (1) return the plan to the health care facility; and
- (2) identify the specific provisions under Section 323.004 with which the plan conflicts or does not comply.

(b) Not later than the 90th day after the date the department returns a plan to a health care facility under Subsection (a), the facility shall correct and resubmit the plan to the department for approval.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. 677), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.003 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.002(11), eff. September 1, 2007.

Sec. 323.004. MINIMUM STANDARDS FOR EMERGENCY SERVICES.

(a) Except as otherwise provided by Subsection (a-2), after a sexual assault survivor arrives at a health care facility following an alleged sexual assault, the facility shall provide care to the survivor in accordance with Subsection (b).

(a-1) A facility that is not a SAFE-ready facility shall inform the sexual assault survivor that:

(1) the facility is not a SAFE-ready facility and provide to the survivor the name and location of the closest SAFE-ready facility and the information form required by Section 323.0051; and

(2) the survivor is entitled, at the survivor's option:

(A) to receive the care described by Subsection (b) at that facility, subject to Subsection (b-1); or

(B) to be stabilized and to be transferred to and receive the care described by Subsection (b) at a SAFE-ready

facility.

(a-2) If a sexual assault survivor chooses to be transferred under Subsection (a-1)(2)(B), after obtaining the survivor's written, signed consent to the transfer, the facility shall stabilize and transfer the survivor to a SAFE-ready facility, which shall provide care to the survivor in accordance with Subsection (b).

(a-3) Before transferring a sexual assault survivor, a health care facility that is not a SAFE-ready facility shall contact the SAFE-ready facility to which the survivor will be transferred to confirm a sexual assault forensic examiner is available at that facility.

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

(1) subject to Subsection (b-1), a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been requested by a law enforcement agency under Subchapter F, Chapter 56A, Code of Criminal Procedure, or is conducted under Subchapter G, Chapter 56A, Code of Criminal Procedure;

(2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer until a physician, nurse, or physician assistant is able to treat the survivor;

(3) access to a sexual assault program advocate, if available, as provided by Subchapter H, Chapter 56A, Code of Criminal Procedure;

(4) the information form required by Section 323.005;

(5) a private treatment room, if available;

(6) if indicated by the history of contact, access to appropriate prophylaxis for exposure to sexually transmitted infections; and

(7) the name and telephone number of the nearest sexual assault crisis center.

(b-1) A person may not perform a forensic examination on a sexual assault survivor unless the person has the basic training described by Section 323.0045 or the equivalent education and

training.

(c) A health care facility must obtain documented consent before providing the forensic medical examination and treatment. The facility shall presume that an adult sexual assault survivor requesting a forensic medical examination and treatment is competent.

(d) This section does not affect the duty of a health care facility to comply with the requirements of the federal Emergency Medical Treatment and Active Labor Act of 1986 (42 U.S.C. Section 1395dd) that are applicable to the facility.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. [677](#)), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.004 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.002(12), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1140 (H.B. [2626](#)), Sec. 4, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. [1191](#)), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. [3152](#)), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. [4173](#)), Sec. 2.54, eff. January 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. [4531](#)), Sec. 1, eff. September 1, 2019.

Sec. 323.0044. PROVISION OF EMERGENCY SERVICES TO CERTAIN ADULT SEXUAL ASSAULT SURVIVORS. (a) A health care facility shall provide a forensic medical examination and treatment to an adult sexual assault survivor for whom a guardian is appointed under Title 3, Estates Code, without the consent of the survivor's guardian, guardian ad litem, or other legal agent if:

(1) the health care facility determines the survivor understands the nature of the forensic medical examination and

treatment; and

(2) the survivor agrees to receive the forensic medical examination and treatment.

(b) Subject to Subsection (c), if an adult sexual assault survivor requests a forensic medical examination and treatment and a health care facility determines the survivor potentially is incapable of consenting to the forensic medical examination and treatment, the health care facility may:

(1) obtain consent from a relative or caretaker of the survivor on the survivor's behalf;

(2) obtain consent from the survivor's guardian, guardian ad litem, or other legal agent; or

(3) petition a court with probate jurisdiction in the county in which the facility is located for an emergency order authorizing the forensic medical examination and treatment, in the manner provided by Section [48.208](#), Human Resources Code.

(c) If personnel of a health care facility know or have reason to believe that the survivor's relative, caretaker, guardian, guardian ad litem, or other legal agent is a suspect or accomplice in the sexual assault of the survivor, the health care facility may not contact the survivor's relative, caretaker, guardian, guardian ad litem, or other legal agent.

(d) A health care facility may not provide a forensic medical examination to an adult sexual assault survivor for whom a guardian is appointed under Title 3, Estates Code, if the survivor refuses the examination, regardless of whether the survivor's guardian requests or consents to the examination.

Added by Acts 2019, 86th Leg., R.S., Ch. 1329 (H.B. [4531](#)), Sec. 2, eff. September 1, 2019.

Sec. 323.0045. BASIC SEXUAL ASSAULT FORENSIC EVIDENCE COLLECTION TRAINING. (a) A person who performs a forensic examination on a sexual assault survivor must have at least basic forensic evidence collection training or the equivalent education.

(b) A person who completes a continuing medical or nursing education course in forensic evidence collection that is approved or recognized by the appropriate licensing board is considered to

have basic sexual assault forensic evidence training for purposes of this chapter.

(c) Each health care facility that has an emergency department and that is not a SAFE-ready facility shall develop a plan to train personnel on sexual assault forensic evidence collection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. [1191](#)), Sec. 3, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. [3152](#)), Sec. 4, eff. September 1, 2017.

Sec. 323.005. INFORMATION FORM.

Text of subsection as amended by Acts 2019, 86th Leg., R.S., Ch. 1037 (H.B. [616](#)), Sec. 6, and Ch. 408 (H.B. [8](#)), Sec. 10

(a) The department shall develop a standard information form for sexual assault survivors that must include:

(1) a detailed explanation of the forensic medical examination required to be provided by law, including a statement that photographs may be taken of the genitalia;

(2) information regarding treatment of sexually transmitted infections and pregnancy, including:

(A) generally accepted medical procedures;

(B) appropriate medications; and

(C) any contraindications of the medications prescribed for treating sexually transmitted infections and preventing pregnancy;

(3) information regarding drug-facilitated sexual assault, including the necessity for an immediate urine test for sexual assault survivors who may have been involuntarily drugged;

(4) information regarding crime victims compensation, including:

(A) a statement that public agencies are responsible for paying for the forensic portion of an examination conducted under Article [56.06](#) or [56.065](#), Code of Criminal

Procedure, and for the evidence collection kit used in connection with the examination and that the health care facility or provider, as applicable, is responsible for seeking reimbursement for those costs; and

(B) information regarding the reimbursement of the survivor for the medical portion of the examination;

(5) an explanation that consent for the forensic medical examination may be withdrawn at any time during the examination;

(6) the name and telephone number of sexual assault crisis centers statewide; and

(7) information regarding postexposure prophylaxis for HIV infection.

Text of subsection as amended by Acts 2019, 86th Leg., R.S., Ch. 469
(H.B. [4173](#)), Sec. 2.55

(a) The department shall develop a standard information form for sexual assault survivors that must include:

(1) a detailed explanation of the forensic medical examination required to be provided by law, including a statement that photographs may be taken of the genitalia;

(2) information regarding treatment of sexually transmitted infections and pregnancy, including:

(A) generally accepted medical procedures;

(B) appropriate medications; and

(C) any contraindications of the medications prescribed for treating sexually transmitted infections and preventing pregnancy;

(3) information regarding drug-facilitated sexual assault, including the necessity for an immediate urine test for sexual assault survivors who may have been involuntarily drugged;

(4) information regarding crime victims compensation, including:

(A) a statement that:

(i) a law enforcement agency will pay for the forensic portion of an examination requested by the agency

under Subchapter [F](#), Chapter [56A](#), Code of Criminal Procedure, and for the evidence collection kit; or

(ii) the Department of Public Safety will pay the appropriate fees for the forensic portion of an examination conducted under Subchapter [G](#), Chapter [56A](#), Code of Criminal Procedure, and for the evidence collection kit; and

(B) reimbursement information for the medical portion of the examination;

(5) an explanation that consent for the forensic medical examination may be withdrawn at any time during the examination;

(6) the name and telephone number of sexual assault crisis centers statewide; and

(7) information regarding postexposure prophylaxis for HIV infection.

(b) A health care facility shall use the standard form developed under this section.

(c) An individual employed by or under contract with a health care facility may refuse to provide the information form required by this section for ethical or religious reasons. If an individual employed by or under contract with a health care facility refuses to provide the survivor with the information form, the health care facility must ensure that the information form is provided without delay to the survivor by another individual employed by or under contract with the facility.

(d) In addition to providing the information form described by Subsection (a), a health care facility shall ensure that the information described by Subsection (a)(4)(A) is orally communicated to the survivor.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. [677](#)), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.005 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(47), eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1140 (H.B. [2626](#)), Sec. 5, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 10, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.55, eff. January 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1037 (H.B. 616), Sec. 6, eff. September 1, 2019.

Sec. 323.0051. INFORMATION FORM FOR SEXUAL ASSAULT SURVIVORS AT CERTAIN FACILITIES. (a) The department shall develop a standard information form for sexual assault survivors who arrive at a health care facility that is not a SAFE-ready facility. The information form must include:

(1) information regarding the benefits of a forensic medical examination conducted by a sexual assault forensic examiner;

(2) the Internet website address to the department's list of SAFE-ready facilities that includes the facilities' physical addresses as required by Section 323.008;

(3) the following statements:

(A) "As a survivor of sexual assault, you have the right to receive a forensic medical examination at this hospital emergency room if you are requesting the examination not later than 120 hours after the assault.";

(B) "A report to law enforcement is not required, but if you make a report, law enforcement must first authorize the examination."; and

(C) "Call 1-800-656-HOPE to be connected to a rape crisis center for free and confidential assistance."; and

(4) information on the procedure for submitting a complaint against the health care facility.

(b) A health care facility that is not a SAFE-ready facility shall provide the standard information form developed under this section to each sexual assault survivor who arrives at the facility.

Added by Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. 3152), Sec. 5, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1037 (H.B. 616), Sec. 7, eff. September 1, 2019.

Sec. 323.0052. INFORMATION FORM FOR SEXUAL ASSAULT SURVIVORS WHO HAVE NOT REPORTED ASSAULT. (a) The department shall develop a standard information form that, as described by Subsection (b), is to be provided to sexual assault survivors who have not given signed, written consent to a health care facility to release the evidence as provided by Section 420.0735, Government Code. The form must include the following information:

(1) the Department of Public Safety's policy regarding storage of evidence of a sexual assault or other sex offense that is collected under Article 56.065, Code of Criminal Procedure, including:

(A) a statement that the evidence will be stored until the fifth anniversary of the date on which the evidence was collected before the evidence becomes eligible for destruction; and

(B) the department's procedures regarding the notification of the survivor before a planned destruction of the evidence;

(2) a statement that the survivor may request the release of the evidence to a law enforcement agency and report a sexual assault or other sex offense to the agency at any time;

(3) the name, phone number, and e-mail address of the law enforcement agency with jurisdiction over the offense; and

(4) the name and phone number of a local rape crisis center.

(b) A health care facility that provides care to a sexual assault survivor who has not given consent as described by Subsection (a) shall provide the standard form developed under Subsection (a) to the survivor before the survivor is released from the facility.

Added by Acts 2019, 86th Leg., R.S., Ch. 408 (H.B. 8), Sec. 11, eff. September 1, 2019.

Sec. 323.006. INSPECTION. The department may conduct an inspection of a health care facility to ensure compliance with this

chapter.

Added by Acts 2005, 79th Leg., Ch. 934 (H.B. [677](#)), Sec. 1, eff. September 1, 2005.

Renumbered from Health and Safety Code, Section 322.006 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(47), eff. September 1, 2007.

Sec. 323.007. SEXUAL ASSAULT SURVIVORS WHO ARE MINORS. This chapter does not affect participating entities of children's advocacy centers under Subchapter [E](#), Chapter [264](#), Family Code, or the working protocols set forth by their multidisciplinary teams to ensure access to specialized medical assessments for sexual assault survivors who are minors. To the extent of a conflict with Subchapter [E](#), Chapter [264](#), Family Code, that subchapter controls.

Added by Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. [1191](#)), Sec. 4, eff. September 1, 2013.

Sec. 323.008. DATA PUBLICATION. The department shall post on the department's Internet website a list of all hospitals that are designated as SAFE-ready facilities and the facilities' physical addresses. The department shall update the list annually. To the extent possible, the department shall collect the data required by this section as part of a survey required by the department under other law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 162 (S.B. [1191](#)), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1063 (H.B. [3152](#)), Sec. 6, eff. September 1, 2017.